

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 05/07/2024

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SECURITIES AND EXCHANGE COMMISSION,

Applicant,

-against-

ERIC MCKENZIE COBB,

Respondent.
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24 Misc. 173 (VEC)

ORDER DIRECTING COMPLIANCE WITH INVESTIGATIVE SUBPOENA

WHEREAS on April 9, 2024, the Securities and Exchange Commission (“SEC”) filed an Application for an Order to Show Cause and for an Order Requiring Compliance with Subpoena (Dkt. No. 1, the “Application”), seeking compliance by Respondent Eric McKenzie Cobb (“Respondent”) with an investigative subpoena issued by the SEC on June 26, 2023 (the “June 26 Subpoena”);

WHEREAS on April 10, 2024, the Court entered an order to show cause (Dkt. No. 9, the “April 10 Order”) requiring Respondent to serve and file any papers in opposition to the SEC’s motion by April 24, 2024, directing the SEC to file reply papers by May 3, 2024, and scheduling a hearing on the SEC’s motion for May 10, 2024; and further ordering the SEC to serve Respondent with the April 10 Order and the papers the SEC filed in support of its motion by email and UPS overnight delivery, and to file proof of such service, on or before April 12, 2024;

WHEREAS, on April 11, 2024, the SEC filed proof that it served Respondent with the April 10 Order and the papers filed by the SEC in support of its motion, via both email and UPS overnight delivery service, on April 10, 2024 (Dkt. No. 11), and on April 29, 2024,

the SEC filed proof of service that on April 24, 2024, it also served the Respondent personally with the April 10 Order and the supporting papers (Dkt. No. 12); and

WHEREAS on April 29, 2024, the Court entered an order (Dkt. No. 13, the “April 29 Order”) (1) observing that Respondent had not responded to the April 10 Order by the April 24, 2024 deadline provided in the April 10 Order, or otherwise appeared in this matter, (2) ordering that if Respondent did not file opposition papers by May 2, 2024, the Court would treat the SEC’s motion as unopposed, and that if Respondent complied with the May 2, 2024 deadline, the SEC must file reply papers by May 7, 2024, and (3) ordering the SEC (a) to file proof of service on Respondent of the April 29 Order by 5:00 PM on April 30, 2024, and (b), if Respondent did not timely respond to the April 29 Order, to submit a proposed order to the Court granting the SEC’s requested relief in accordance with the Court’s Individual Practices, not later than May 7, 2024; and

WHEREAS the SEC timely filed proof that it had served Respondent with the April 29, 2024 by email and UPS overnight delivery pursuant to the April 29 Order (Dkt. No. 14), and

WHEREAS, Respondent has not served or filed any papers in opposition to the SEC’s motion or otherwise appeared in this matter,

NOW THEREFORE, the Court having considered the SEC’s Application for an Order to Show Cause, and the papers filed in support thereof, and a proper showing in support of the relief sought therein having been made,

I.

IT IS HEREBY ORDERED that the Application is granted.

II.

IT IS FURTHER HEREBY ORDERED that Respondent is directed to appear for testimony before the SEC's New York Regional Office, at 10:00 a.m., on May 29, 2024 or another date and time to which the SEC staff consents in writing, and continuing, from day to day, until completed;

III.

IT IS FURTHER ORDERED that Respondent shall produce to the SEC all documents responsive to the June 26 Subpoena within his possession, custody or control no later than May 15, 2024;

IV.

IT IS FURTHER ORDERED that, in the event that Respondent does not have documents in his possession, custody, or control that are responsive to the June 26 Subpoena or to any requests contained in the June 26 Subpoena, Respondent shall submit a sworn statement to the SEC describing the efforts he made to locate responsive documents and the results of those efforts, no later than May 15, 2024;

V.

IT IS FURTHER ORDERED that, in the event that Respondent does not produce the documents or statements described in paragraphs III or IV by the date specified above in those paragraphs, (i) the SEC will have established a *prima facie* case of civil contempt against him for his failure to comply with this Order directing him to produce documents; and (ii) Respondent may be held in civil contempt for failure to comply with that Order without further notice or hearing;

VI.

IT IS FURTHER ORDERED that, in the event that Respondent does not appear for testimony before the SEC on the date specified above, or at such other date and time to which the SEC staff consents in writing, (i) the SEC will have established a *prima facie* case of civil contempt against Respondent for his failure to comply with this Order directing him to appear for testimony; and (ii) Respondent may be held in civil contempt for failure to comply with this Order without further notice or hearing; and

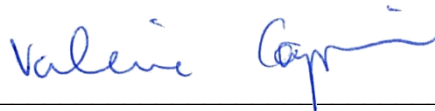
VII.

IT IS FURTHER ORDERED that the SEC shall serve a copy of this Order on Respondent by email and UPS overnight delivery on or before **May 8, 2024**, and shall file proof of service with the Court on or before **May 8, 2024**.

The Clerk of Court is respectfully directed to terminate all open motions and to CLOSE the case.

SO ORDERED

Dated: May 7, 2024
New York, New York



HON VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE